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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION

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CLERK US DISTRICT COURT  
NORFOLK, VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF VIRGINIA BEACH, VIRGINIA,

Defendant.

Civil Action No. 7:06cv189

**COMPLAINT**

Plaintiff, United States of America, alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., as amended ("Title VII").
2. This court has jurisdiction of this action under 42 U.S.C. § 2000e-6(b), 28 U.S.C. § 1343(a)(3) and 28 U.S.C. § 1345.
3. Defendant, City of Virginia Beach, Virginia, is a municipal government and/or political subdivision created pursuant to the laws of the Commonwealth of Virginia.
4. Defendant City of Virginia Beach is a person within the meaning of 42 U.S.C. § 2000e(a) and an employer within the meaning of 42 U.S.C. § 2000e(b).
5. Defendant City of Virginia Beach employs police officers who, among other things, are responsible for protecting individuals and property in the City of Virginia Beach and apprehending persons violating any laws within the City of Virginia Beach.

6. Defendant City of Virginia Beach is responsible for establishing the terms, conditions, and other practices which bear upon the employment of the City's police officers.

7. Since at least 1998, defendant City of Virginia Beach has administered and used a written examination, the National Police Officer Selection Test ("POST"), in the screening and selection of applicants for hire into the position of entry-level police officer in the City of Virginia Beach Police Department.

8. The versions of the POST used by defendant City of Virginia Beach have included three or four components, including a test intended to measure certain mathematics skills ("the mathematics test").

9. Since at least 1998, defendant City of Virginia Beach has allowed an applicant to continue in the City's screening and selection process for the entry-level police officer position only if the applicant passed (i.e., obtained a score of at least 70% on) each of the POST's component tests, including the mathematics test.

10. Between on or about January 1, 2002 and on or about June 30, 2005, approximately 41% of the African-American applicants to whom Virginia Beach administered the POST failed the mathematics test, while approximately 15% of the white applicants who took the mathematics test failed it.

11. Between on or about January 1, 2002 and on or about June 30, 2005, approximately 34% of the Hispanic applicants to whom Virginia Beach administered the POST failed the mathematics test.

12. Defendant City of Virginia Beach's use of the mathematics test in the manner described above has an adverse impact on African-American and Hispanic applicants for the position of entry-level police officer in the Virginia Beach Police Department, and it is not job

related for the position in question and consistent with business necessity.

13. Defendant City of Virginia Beach has pursued and continues to pursue policies and practices that discriminate against African-American and Hispanic applicants and that deprive or tend to deprive African Americans and Hispanics of employment opportunities because of their race and national origin, in violation of Section 707 of Title VII, 42 U.S.C. § 2000e-6. Defendant City of Virginia Beach has implemented these policies and practices, among other ways, as follows:

- a. by failing or refusing to hire African-American and Hispanic applicants for the position of entry-level police officer on the same basis as white applicants;
- b. by using an employment practice, use of the POST mathematics test with a cutoff score of 70% as a pass/fail screening device, that has an adverse impact on African-American and Hispanic applicants for the position of entry-level police officer and that is not job related for the position in question and consistent with business necessity; and
- c. by failing or refusing to take appropriate action to correct the present effects of its discriminatory policies and practices.

14. In accordance with Section 707 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-6, the United States, through the Department of Justice, has investigated the employment practices of defendant City of Virginia Beach, has notified defendant of the investigation and the policies and practices described in paragraphs 7 through 13, above, and has attempted to resolve this matter through negotiation.

15. The policies and practices of defendant City of Virginia Beach described in paragraphs 7 through 13, above, constitute a pattern or practice of resistance to the full enjoyment

by African Americans and Hispanics of their right to equal employment opportunities without discrimination based on race or national origin, in violation of Section 707 of Title VII, 42 U.S.C. § 2000e-6. The pattern or practice is of such a nature and is intended to deny the full exercise of the rights secured by Title VII of the Civil Rights Act of 1964. Unless restrained by order of this Court, defendant City of Virginia Beach will continue to pursue policies and practices that are the same as or similar to those alleged in this Complaint.

16. All conditions precedent to the filing of suit have been performed or have occurred.

Wherefore, plaintiff United States prays for an order enjoining defendant City of Virginia Beach, its officers, agents, employees, successors and all persons in active concert or participation with them, from engaging in discriminatory employment practices based on race or national origin, and specifically from:

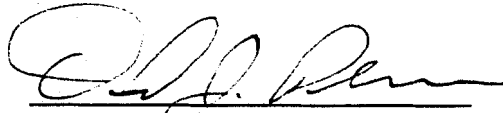
- a. failing or refusing to hire African-American or Hispanic applicants for the entry-level position of police officer on the same basis as white applicants;
- b. using an employment practice, use of the POST mathematics test with a cutoff score of 70% as a pass/fail screening device, that has an adverse impact on African Americans and Hispanics and that is not job related for the position in question and consistent with business necessity; and
- c. failing or refusing to provide make-whole relief, including back pay with interest, offers of rightful place employment, and other benefits, to individuals who have suffered loss or will suffer loss as a result of the discriminatory policies and practices alleged in this Complaint; and

- d. failing or refusing to take other appropriate non-discriminatory measures to overcome the effects of their discriminatory policies and practices.

Plaintiff United States prays for such additional relief as justice may require, together with its costs and disbursements in this action.

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